

DEC 21 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the matter of

Joint Petition for Rulemaking to Establish
 Rules for Subscriber Access to Cable Home
 Wiring for the Delivery of Competing and
 Complimentary Video Services

RM-8380

**COMMENTS OF
 THE WIRELESS CABLE ASSOCIATION INTERNATIONAL, INC.**

The Wireless Cable Association International, Inc. ("WCAI"), by its attorneys, hereby responds to the Commission's solicitation of comments on the joint petition filed by Media Access Project, United States Telephone Association ("USTA") and Citizens for a Sound Economy Foundation (collectively, the "Petitioners") urging the adoption of new rules to govern the dominion of consumers over inside wiring used to deliver cable television services.^{1/}

WCAI is in fundamental agreement with the Petitioners' call for the adoption of rules applying the telephone inside wiring model to regulate the ownership and use of inside wiring used to deliver cable television services. Indeed, WCA proposed just such an approach in its comments and reply comments in MM Docket No. 92-260, *Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring*.^{2/} As WCAI has previously reported to the Commission, franchised cable operators have frequently

^{1/} "Joint Petition for Rulemaking on Cable Television Wiring", *News Release*, DA 93-1343 (rel. Nov. 15, 1993).

^{2/} See comments of WCAI, MM Docket No. 92-260, at 8 (filed Dec. 1, 1992); Reply Comments of WCAI, MM Docket No. 92-260, at 2-3 (filed Dec. 14, 1992).

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exploited the wiring used to provide cable service as a weapon against emerging competition. Adoption of rules based on the telephone inside wiring model that afford consumers greater control over the wiring used to provide cable television services will advance the Commission's efforts to introduce competition into the multichannel video programming marketplace while reducing costs to consumers.

WCAI is concerned, however, with the Petitioner's assertion that in MM Docket No. 92-260 "the Commission has provided reasonable protection for subscribers who terminate cable service."^{3/} If the Petitioners mean to suggest that it would be appropriate for the Commission to retain the rules adopted in the initial *Report and Order* in MM Docket No. 92-260 governing the ownership of cabling once service is terminated, but adopt new rules to govern the use of cabling prior to the termination cable service, they are mistaken. To the contrary, the record before the Commission establishes beyond peradventure that the rules promulgated by the *Report and Order* in MM Docket No. 92-260 governing the ownership of cabling after a consumer terminates service are grossly defective, and that application of the telephone model will better serve consumers.

The pending petitions for reconsideration in MM Docket No. 92-260 spell out in detail the flaws in the rules adopted by the Commission to govern the ownership of inside cabling once a consumer terminates cable television service. While in the interest of brevity WCAI will not repeat the many arguments before the Commission in MM Docket No. 92-260, the pleadings establish that the consumer will benefit by application of the telephone model

^{3/} Petition, at 5.

before and after the consumer has terminated cable television service. As Petitioner USTA itself has noted "a single demarcation and ownership convention would accommodate the convergence that is developing in telecommunications."^{4/}

One of the issues before the Commission on reconsideration of the *Report and Order* is particularly relevant here. The inescapable fact is that the Commission must revise its designation of the demarcation point for cable home wiring in multiple dwelling units ("MDUs") as the point at or about twelve inches outside of where the cable enters the subscriber's individual unit. As Liberty Cable Company, Inc. noted in its petition for reconsideration, the Commission's designated demarcation point is impractical because "wire within twelve inches of a subscriber's premises is buried in a brick, concrete or cinder block wall or concealed in a conduit and is not, therefore, readily accessible without causing substantial damage to the building and the subscriber's apartment."^{5/} Similar sentiments were expressed by WCAI, wireless cable operator WJB-TV Limited Partnership, Petitioner USTA, Bell Atlantic, Pacific Bell, Nevada Bell, and the NYNEX Telephone Companies.^{6/} If the Commission is to assure residents of MDUs the benefits of competition in the multichannel

^{4/} Reply Comments of USTA, MM Docket No. 92-260, at 2 (filed June 2, 1993).

^{5/} Petition of Liberty Cable Co. for Reconsideration and Clarification, MM Docket No. 92-260, at 3 (filed April 1, 1993).

^{6/} See Comments of WCAI, MM Docket No. 92-260, at 1 n. 2 (filed Dec. 1, 1992); Response of WJB-TV Limited Partnership, MM Docket No. 92-260, at 2-5 (filed April 15, 1993); Reply Comments of USTA, MM Docket No. 92-260, at 5-6 (filed June 2, 1993); Response of Bell Atlantic, MM Docket No. 92-260, at 3-4 (filed May 18, 1993); Petition for Reconsideration of the NYNEX Telephone Companies, MM Docket No. 92-260, at 3-4 (filed April 1, 1993); Comments of Pacific Bell and Nevada Bell, MM Docket No. 92-260, at 2 (filed May 18, 1993).

video programming marketplace, it must develop a more appropriate demarcation point. WCAI submits that consumers will best be served by affording each resident of an MDU control over any and all wiring and associated devices devoted exclusively to the provision of service to his or her individual unit.

In short, the Petitioners have not presented, and WCAI cannot imagine, any policy rationale for applying different regulatory regimes to installed cabling depending on whether cable television service has been terminated. The benefits to consumers of applying the telephone model pertain regardless of whether cable television service has been terminated. Therefore, WCAI calls upon the Commission to employ a coordinated approach in this proceeding and in MM Docket No. 92-260 to assure that all competitors have full and fair access to installed cabling.

Respectfully submitted,

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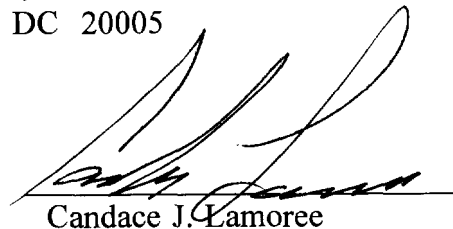
CERTIFICATE OF SERVICE

I, Candace J. Lamoree, hereby certify that the foregoing "Comments of The Wireless Cable Association International, Inc." was served this 21st day of December, 1993 by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, to:

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